HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 22969 of 2007

Dated: 01-11-2007

Between:

M.Thimma Reddy and 3 others.

..... PETITIC

AND

The District Collector,
Anantapur District,
Anantapur & another.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 22969 of 2007

O R D E R:

This writ petition is filed for a writ of Mandamus declaring the notification dated 15-03-2007 issued under Sections 4(1) and 6 of the Land Acquisition Act, 1894 (for short 'the Act') as illegal and arbitrary.

A perusal of the averments contained in the affidavit filed in support of the writ petition and the material on record show that on 15-03-2007 respondent No.1 issued a notification under Section 4(1) of the Act, whereunder certain lands including the lands belonging to the petitioners situated in Gunthakal Village and Mandal, Ananthapur District were notified for acquisition. The notification shows that respondent No.2 has been appointed and he is authorised to conduct enquiry under Section 5-A of the Act.

Where a notification under Section 4(1) of the Act was issued and urgency clause under Section 17(4) of the Act had not been invoked, it is incumbent upon the authorities to conduct enquiry under Section 5-A of the Act. It is only after considering the report if any made under Section 5-A of the Act, that a declaration under Section 6 of the Act can be published.

In the instant case, respondents committed a fundamental flaw in causing Section 6 declaration made simultaneously along with Section 4(1) notification, though enquiry under Section 5-A of the Act is not dispensed with.

Learned Assistant Government Pleader for Land Acquisition fairly admitted that there is procedural illegality in publication of notifications by respondent No.1.

In view of the same, the writ petition is allowed and the declaration dated 15-03-2007 made under Section 6 of the Act is set aside. Respondents are directed to hold enquiry under Section 5-A of the Act and proceed further. No costs.

C.V.NAGARJUNA REDDY,J

Date: 01-11-2007
KLP